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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,155	03/05/2001	Richard Gary McDaniel	00 P 7500 US01	5378

7590 01/10/2006

Siemens Corporation  
Attn: Elsa Keller, Legal Administrator  
Intellectual Property Department  
186 Wood Avenue South  
Iselin, NJ 08830

EXAMINER

HARTMAN JR, RONALD D

ART UNIT PAPER NUMBER

2121

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/809,155

Applicant(s)

MCDANIEL ET AL.

Examiner

Ronald D. Hartman Jr.

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because none of the inventors have signed it.

### ***Specification***

2. The disclosure is objected to because it contains embedded hyperlinks and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlinks and/or other form of browser-executable code. See MPEP § 608.01.

The Examiner notes that the hyperlinks appear in [0009], [0010], [0032], [0033] and [0035], however this list is non-exhaustive and the applicant is kindly asked to remove all instances of hyperlinks from the specification.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3 and 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 9 contains the trademark/trade name Windows. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used

properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a graphical user interface and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadre et al., U.S. Patent No. 5,485,620.

As per claims 1 and 8, Sadre et al. teaches a method comprising the steps of:

- providing, on a first computer, a programming tool used as both a control program and a visual interface for the control program (e.g. programming, monitoring and debugging automation application programs created using a GUI; C12 L25-32), the programming tool including a library of program widgets, a graphical editor enabling manipulation of a graphical representation of any of the widgets by the user (e.g. Figure 27, Figures 13-16 and C18 L56- C19 L22), and an inference engine for recording and processing the manipulation to produce executable code (e.g. Figure 26b); and
- providing an input/output module, interfacing with the programming tool, for coupling the widgets to external input and output signals of an automation process such that the executable code is used to control the automation process (e.g. Figures 2, 24 and Abstract).

As per claims 2 and 9, further providing a code compiler to compile the code to run on a second computer (e.g. the compiler is interpreted to be a feature inherent to

the conversion of the graphical elements placed on the screen into code recognizable by the automation equipment, such as a PLC, for operation of the same).

As per claims 3 and 10, the first computer utilizing windows based program and the second computer being a PLC (e.g. Figures 2 and 24).

As per claims 4 and 11, the graphical representation of any widget can provide feedback for the runtime monitoring and control of the automation process (e.g. Abstract, C3 L65-67 and C12 L25-32).

As per claims 5 and 12, the feedback is a visual change, animation, sound, other form of stimulus, triggering of an event, or a combination thereof (e.g. Figure 5 and C24 L47-67).

As per claims 6 and 13, the graphical representation of any widget can also provide user input capabilities for the runtime monitoring and control of the automation process (e.g. C12 L25-32).

As per claims 7 and 14, the widgets include "machine widgets", "programming widgets" and "user interface widgets" (e.g. Figure 27 and C12 L33-45).

As per claims 15 and 17, the automation process comprises a home automation, building automation, industrial automation or other automation based process (e.g. Abstract).

As per claim 16, the computer readable medium comprises a floppy disk, a CD-ROM, a hard disk drive, a downloadable file from an Internet site, magnetic tape, digital videodisk, removable memory drive or an email file (e.g. Figure 24 element 74 or 76 AND Figure 27 element "Read Data").

***Conclusion***

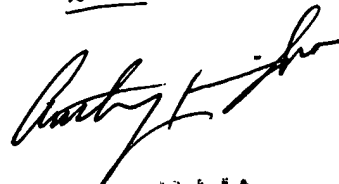
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald D Hartman Jr.  
Patent Examiner  
Art Unit 2121

*x RDH*



**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**

December 24, 2005